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## A BILL FOR AN ORDINANCE

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RELATING TO AFFORDABLE RENTAL HOUSING LEASES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to allow the original developer of rental housing for low-moderate income persons, or a subsequent owner, to request lease extensions from the City, if certain conditions are met.

SECTION 2. Section 28-3.4, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:

**"Sec. 28-3.4 Bidding not required—Leasing to private developers.**

- (a) The city may lease or rent real property, including improvements thereon, to a private developer without calling for bids for the purpose of constructing housing, commercial, parking and other facilities or uses in implementing the housing and human services programs of the city and county. As used in this section, "developers" includes both for-profit and nonprofit developers of housing or other facilities for any need group, including low-moderate income persons and persons receiving human services as defined in Section 28-3.5.
- (b) The city agency shall make a public announcement on each occasion when any project is proposed or contemplated and set forth the objectives to be achieved for the project and request interested persons to submit proposals therefor. The city agency shall make such announcements in a daily newspaper of general circulation in the state once a week for two successive weeks. Such public announcement shall include, but not be limited to the following information:
  - (1) Description of the proposed project and the objectives for the project, including a description of the type of need group to be served;
  - (2) Location of the proposed project;
  - (3) Scope of the project;
  - (4) Length of the lease;
  - (5) Amount and type of government funds available for the project; and
  - (6) Description of any special requirements or unique features of the project.



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Any interested developer shall file a statement of the developer's intention to submit a proposal with the city agency on or before 30 days after the last public announcement.

- (c)
  - (1) The city agency shall examine all proposals from interested developers and determine those developers the city agency deems qualified to perform the services for the specific project under consideration. The agency shall thereafter select no fewer than three developers who are considered most qualified to perform the required services; provided, that if there are fewer than three developers, after the deadline for submitting proposals, the agency may still select a developer and file such report with the city clerk. The city agency may negotiate with developers submitting the best three proposals in making a final selection. If no qualified proposals are received in response to the notice, the city agency may negotiate with and select a developer, provided that fact is noted in the report filed pursuant to subdivision (2).
  - (2) Upon completion of the evaluation and selection process, the director shall file a written report with the city clerk, including the results of the negotiations with the successful developer. The city clerk shall post the report for public inspection in City Hall where other public notices and meeting agendas of the council are posted. The report shall be a public record.
- (d) The evaluation and selection by any city agency of the design and developer for any housing project may include consideration of the following criteria:
  - (1) Implementation of the general plan objectives and policies in the area of housing;
  - (2) Compatibility with all other applicable general plan objectives and policies;
  - (3) Contribution toward implementing the planned land use pattern and other development or redevelopment policies for the site and surrounding area, as specified in the adopted development plan and any adopted special or special area plan district covering the area; and
  - (4) Attractiveness and functionality of the project design. Specific considerations shall include:



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- (A) Conformance with the urban design principles and controls specified in the adopted development plan for the area;
  - (B) Relationship of structures within the project to each other, and of the entire project to surrounding structures, in terms of providing a harmonious composition of masses, colors and textures;
  - (C) Integration of spaces and building forms;
  - (D) Relationship of off-street parking to the overall vehicular circulation system;
  - (E) Pedestrian circulation plan;
  - (F) Provision of recreational and other facilities for community and leisure time activities; and
  - (G) Landscaping of the site.
- (5) Economic feasibility of the project. Specific considerations shall include:
- (A) Demand for the type and price of housing to be provided;
  - (B) Projected development costs;
  - (C) Projected income from unit sales/rentals;
  - (D) Availability of federal aid; and
  - (E) Anticipated cash flow.
- (6) Developer's previous experience and financial capability.
- (7) Compensation to be provided the city for the land lease or rental.
- (e) Subsequent to selection of the developer, the city agency shall issue to the developer a letter of intent which shall indicate to the developer that the developer may proceed at the developer's own expense and risk to initiate and undertake such studies as the developer may wish.



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- (f) Subsequent to the receipt by the city clerk of the developer selection report, the council may require the city administration to prepare an appraisal of the land on which the project is proposed. The council may require the appraisal to be based on the land's highest and best use, the developer's proposed use, or both. In either case, the appraisal shall be based on the current Uniform Standards of Professional Appraisal Practice (USPAP) and Advisory Opinions as promulgated by the Appraisal Standards Board of the Appraisal Foundation. The requirements shall be expressed in a resolution approved by the council. The resolution also [shall] must include a due date for submittal of the appraisal to the council. The mayor may refuse to prepare the appraisal, provided notice thereof is submitted to the council within five working days of the city administration's receiving the resolution.
- (g) At the earliest feasible date, a lease and development contract shall be submitted by the city agency to the council for approval by resolution; provided, that the council, prior to approval by resolution, may add, delete or amend any term or condition of said lease and development contract.

Upon approval[, said] of the development contract, it shall set forth in detail all covenants, obligations, restrictions, requirements and conditions to govern the proposed development and subsequent operation of [said] the project; provided, that such development contract [shall] must indicate the studies and design work [which] that must be satisfactorily carried out and approved as a condition to the execution of a lease for [said] the property. The lease may be submitted to the council for approval by resolution separately from and subsequent to the submission of the development contract.

- (h) The lease rent may be negotiated. If the lease rent is for a nominal amount, the city agency shall certify that:
- (1) A public hearing was held on the project, including the lease terms;
  - (2) There is a compelling public need for the housing or human services to be provided;
  - (3) A suitable and reasonably priced private facility is not available to meet the need;
  - (4) The developer has demonstrated financial need; and
  - (5) The lease complies with the restrictions specified in Section 28-4.2.



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- (i) Any agency administering a city housing project affected by the provisions of this chapter shall establish a system to determine preferences by lot in the event the number of qualified applicants exceeds the number of housing units available. Where the city has established preferences for housing units by ordinance or rules and regulations, the order of preferences within each category for the selection of units shall be determined by lot.
- (j) With respect to any lease of city property used for housing of low-moderate income persons, notwithstanding the provisions of Section 28-4.2, the city agency may extend any existing lease, including one executed prior to the effective date of this ordinance, one or more times with the original developer or a subsequent owner, each time for a period of up to an additional 75 years, if the city agency certifies that:
  - (1) The city continues to have the public need for the affordable housing located on the leased land and is reasonably likely to continue to have such public need for the period for which the lease is being extended;
  - (2) The lease extension will support the owner's ability to finance any necessary rehabilitation and continued upkeep of the affordable units; and
  - (3) The lessee or expected successor lessee or the persons controlling the same have experience owning and rehabilitating multifamily housing for low-moderate income persons in the city."

SECTION 3. New ordinance material is underscored and ordinance material to be deleted is bracketed. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_  
BILL 55 (2015)


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SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:



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DATE OF INTRODUCTION:

**JUL 17 2015**

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Honolulu, Hawaii

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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KIRK CALDWELL, Mayor  
City and County of Honolulu